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SUMMARY RECORD OF THE 42nd MEETING

Chairman: Mr. KRENKEL (Austria)

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The meeting was called to order at 10.30 a.m.

AGENDA ITEM 97: HUMAN RIGHTS QUESTIONS (continued)

(a) IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS (continued) (A/47/40, A/47/41, A/47/44, A/47/427, A/47/428, A/47/429, A/47/518, A/47/628 and A/47/632)

1. Mr. RICHARDSON (United Kingdom), speaking on behalf of the European Community and its member States, said that the promotion and protection of human rights was one of the fundamental tenets of the United Nations. While their embodiment in the United Nations Charter and the Universal Declaration of Human Rights and their codification in international instruments and the various rules of international law represented considerable progress, at least in theory, that should not be considered sufficient. It was the duty of the international community to give practical effect to the protection of human rights by monitoring the implementation of the various human rights instruments. The Twelve reaffirmed that such monitoring in no way constituted interference in the internal affairs of States. It was also the duty of the international community to secure universal adherence to the instruments relating to human rights. That was one of the objectives laid down by the General Assembly for the World Conference on Human Rights to be held in 1993. The Twelve welcomed the increase in the number of States parties to the various human rights instruments, particularly the two International Covenants. It strongly urged those States which had not already done so to accede to or ratify those instruments, States which had made reservations contrary to their spirit to consider withdrawing them.

2. A proliferation of human rights standards could eventually dilute the effectiveness of existing treaties and weaken the universal principles on which they were based. Thus, future standard-setting activities should be limited to those areas which commanded broad consensus, and the guidelines set out in General Assembly resolution 41/120 should be applied when the drafting of new instruments was being considered.

3. Under the rules of international law and the United Nations Charter, all States were accountable to the international community for the protection of the fundamental human rights of all persons under their jurisdiction. But their responsibility did not end there: they had a further responsibility to uphold the obligations which they had freely undertaken by adhering to the human rights instruments, and to submit to supervision by the international treaty bodies. The European Community and its member States could not stress too strongly that the proper and effective functioning of those bodies was crucial to the enhancement of human rights and of the awareness of Governments of the need to respect their obligations.

4. One way to improve the functioning of the monitoring bodies would be for all States parties to submit full and timely reports, as they were required to do. Admittedly, the drafting of such reports involved a great deal of work,

(Mr. Richardson, United Kingdom)

but each State should nevertheless fulfil its obligations. The Twelve noted with concern that a very large number of States did not submit their reports, even initial reports, on time, or did not comply with the guidelines for such reports. They welcomed the Secretary-General's efforts, pursuant to General Assembly resolution 45/85, to improve those procedures. They also welcomed the innovation of a "core" document proposed by the Centre for Human Rights and the publication of a manual on human rights reporting by the United Nations Institute for Training and Research (UNITAR) in 1991.

5. The European Community and its member States also attached importance to the provisions of the international human rights instruments permitting individuals to submit complaints. The proper and timely handling of such complaints had a key role to play in obtaining justice for the victims of human rights abuses.

6. Another way to improve the functioning of the human rights treaty monitoring bodies would be to ensure that States parties met their financial obligations in full and on time. If the treaty monitoring bodies lacked the financial resources necessary for their operation, their effectiveness would be diminished. It was not in the interest of any State for those bodies to be forced to postpone or curtail their sessions because States parties had not paid their financial assessments on time. The Twelve therefore welcomed the initiative taken recently by States parties to the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to request the General Assembly to fund the meetings of their human rights treaty monitoring bodies from the regular budget of the United Nations. They urged the General Assembly to implement that recommendation, and all States parties to those Conventions to meet their financial obligations and to pay their arrears.

7. Referring to the Convention on the Rights of the Child which, together with the Second Optional Protocol to the International Covenant on Civil and Political Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, was one of the three new instruments adopted by the United Nations in recent years, he said that the Twelve welcomed the recommendation by the States parties that the Committee on the Rights of the Child should meet twice a year and should also establish a pre-sessional working group to review reports from States parties. Those recommendations reflected the encouraging interest shown by the international community in that new Convention.

8. The workload of the human rights treaty monitoring bodies was crushing. The effectiveness of those bodies was sometimes impaired by the fact that, in many cases, experts had neither the time nor the resources needed to carry out independent research in order to make a thorough examination of the reports submitted by States parties. Those problems must be rectified. Care should also be taken to ensure that the inquiries conducted by the various committees

(Mr. Richardson, United Kingdom)

concerned with human rights did not overlap and that their findings were put to proper use. Those Committees must also make greater efforts to bring their findings to the attention of the citizens of the countries whose reports had been examined.

9. Experts from the committees concerned with protecting human rights had already identified some of those shortcomings and proposed remedies, most notably Professor Alston in his comprehensive study on the effective implementation of human rights (A/44/668). The European Community and its member States looked forward to seeing an updated version of the report. They had also followed closely the regular meetings of the chairpersons of the treaty monitoring bodies, noting with special interest the latter's endorsement of the Secretary-General's proposal aimed at bringing to the attention of the Security Council massive violations of human rights and their recommendations that a member of one of the treaty bodies should be appointed to serve on the commission of experts considering evidence of grave breaches of international humanitarian law in the former Yugoslavia.

10. The World Conference on Human Rights to be held in 1993 offered an unparalleled opportunity to strengthen the treaty supervisory system. In the meantime, some improvements could still be made on the initiative of individual committees and the Centre for Human Rights. Two examples were worthy of mention. First, the Committee on the Elimination of Racial Discrimination, confronted with the problem of long overdue reports from some countries, had decided to proceed with the examination of their human rights record based on existing available information. The Committee on Economic, Social and Cultural Rights had adopted a similar procedure for States which had failed to respond to a final request from the Secretary-General for submission of an overdue report. Secondly, the Human Rights Committee, making increased use of its powers under article 40.1 (b) of the International Covenant on Civil and Political Rights, had called for reports in order to monitor particularly serious situations. The Committee on the Elimination of Racial Discrimination had also adopted that practice. The European Community and its member States considered that the possibility of other treaty monitoring bodies adopting similar measures should be further explored.

11. The Community and its member States continued to attach the greatest importance to the fight to prevent torture, and applauded the work of the Committee against Torture and its Special Rapporteur. They welcomed the recent meeting in Geneva of a working group to consider the question of a draft optional protocol to the Convention against Torture and hoped that those efforts would continue. Until the odious practice of torture had been stamped out, the international community had a duty to continue caring for its victims. In that regard, the European Community and its member States wished to highlight the numerous projects made possible by the Voluntary Fund for Victims of Torture.

12. Mr. LE LUONG MINH (Viet Nam), speaking in exercise of the right of reply, said that he wished to make certain clarifications concerning the statement

(Mr. Le Luong Minh, Viet Nam)

recently made by the representative of Thailand under agenda item 96. The problem of Indo-Chinese refugees affected all countries in South-East Asia, particularly, as had long been the case, those which were the first place of refuge. In order to resolve the problem, the Vietnamese Government and people had made great efforts to prevent illegal departures and to receive and reintegrate Vietnamese returnees. Those efforts had been acknowledged by the United Nations High Commissioner for Refugees (UNHCR) and by the entire international community. Moreover, the action of the Vietnamese Government and people had been supported by UNHCR and the countries concerned, including Thailand. He himself had had occasion to discuss the issue with Thai colleagues.

13. Further, Viet Nam's relations with the Association of South-East Asian Nations (ASEAN) and with Thailand had developed significantly in recent years. In particular, Viet Nam had acquired observer status at ASEAN and had recently signed the Treaty on Friendship and Cooperation in South-East Asia. Viet Nam was also one of the first countries to have sponsored the draft resolution on that Treaty, which had just been adopted by the First Committee.

14. Consequently, the Vietnamese delegation failed to understand the motivation behind the statement made by the Thai representative, which reflected neither the good relations established between Viet Nam and Thailand, nor the constructive attitude displayed by most delegations participating in the discussion on the refugee problem. In addition, his delegation believed that the problem, being humanitarian in nature, should be dealt with in a humanitarian way; any attempt to politicize the issue was unacceptable. It strenuously rejected the allegations made by the representative of Thailand in his statement.

The meeting was suspended at 10.55 a.m. and resumed at 11 a.m.

15. The CHAIRMAN introduced Mrs. Rigoberta Menchu, the 1992 winner of the Nobel Peace Prize. Mrs. Menchu, a Guatemalan, had devoted herself to the cause of the Quichu tribe, indigenous peoples in general and human rights. Aged 33, she had lived in Mexico since 1981. Her autobiography had been translated into 12 languages. She actively participated in the activities of the Working Group on Indigenous Populations, which had, in particular, led to the decision to declare 1993 as the International Year for the World's Indigenous People.

16. The jury that awarded the Nobel Peace Prize had described Mrs. Menchu as a living symbol of peace and reconciliation between ethnic, cultural and social groups in her country, on the American continent and world wide.

17. Mrs. RIGOBERTA MENCHU (Winner of the 1992 Nobel Peace Prize) said that she was happy and proud that the Nobel Peace Prize had given a Guatemalan woman, who was a member of an indigenous community, the opportunity to speak before the Third Committee, whereas 10 years earlier, she had barely been

(Mrs. Rigoberta Menchu)

permitted to plead in the corridors, peddling, so to speak, the cause of her oppressed brothers and sisters. She welcomed the fact that the question of human rights, of which the rights of indigenous peoples were a vital aspect, had a pivotal place in international relations, as attested in particular by the organization of the World Conference on Human Rights to be held in 1993 in Vienna. She recognized the importance of the guiding principles aimed at ensuring full respect for human rights which had been endorsed by the vast majority of United Nations Member States. She believed, however, that much remained to be done and deplored the fact that, in practice, the implementation of such standard-setting texts left much to be desired: millions of human beings were still deprived of their civil and political rights, and many more of their economic, social and cultural rights. Many of those who had been active in defending those rights had been murdered or "disappeared".

18. As the representative of the victims of oppression and discrimination, she regarded it as her duty to criticize the shortcomings of the United Nations which restricted the application of existing human rights standards. One factor which had contributed to restricting their application was the cold war: by crystallizing relations between States and social forces, it had paralysed the human rights community. Despite the fact that it had now become anachronistic, that situation was being perpetuated by conflicts which pitted rich countries against poor countries and led to serious human rights violations. The fall of the Berlin Wall had left intact other walls which presented an obstacle to change.

19. The increasingly marked politicization of the human rights debate in the United Nations undermined the cause of human rights and sapped the credibility of the United Nations. It was imperative to fight that tendency before non-governmental organizations and the representatives of victims demanded such action at the World Conference on Human Rights.

20. Another cause for concern was the fact that the United Nations gave preferential treatment to Governments over the people who suffered the consequences of their repressive policies. Too often rhetoric, legislation (even if not enforced) or some other symbolic measure sufficed for an oppressor Government to be exonerated in the eyes of the international community. Discussions at the United Nations had been going on for decades, while oppressed peoples had yet to see the light at the end of the tunnel. Nothing could excuse a State from its duty to honour the commitments it had undertaken by accepting the International Bill of Human Rights. It was essential that the international community assume its collective responsibility and in future address victims as a priority. When only the opinions of Governments were taken into consideration, even the best projects and programmes were vain efforts. Similarly, human rights advisory services had been diverted from their purpose and were in fact providing Governments which had either committed or tolerated serious human rights violations not only with resources but with an alibi as well.

(Mrs. Rigoberta Menchu)

21. At the forthcoming World Conference on Human Rights, it was vital that non-governmental organizations, which represented the interests of peoples, be adequately represented, as it was easier for them than for Member States of the Organization to denounce the shortcomings of the United Nations and to speak on behalf of victims.

22. She welcomed the decision to proclaim an International Year for the World's Indigenous People, which was the result of efforts of the Third Committee and its Working Group on Indigenous Populations, the NGOs, and, of course, the populations themselves. While it was true that in the area of human rights in general the United Nations had done a great deal of standard-setting work, that was not the case for the rights of indigenous populations. However, progress was being made in that area, in particular in the Working Group on Indigenous Populations. It was hoped that the universal declaration on the rights of indigenous populations, currently in draft form, would be officially adopted in 1993.

23. The Third Committee should appeal to countries to ensure that the International Year for the World's Indigenous People was not merely a symbolic proclamation but marked the beginning of a new era for those people within the United Nations system.

24. The Nobel Peace Prize conferred on her a mission to promote peace and the rights of indigenous populations. The only way to find political solutions to the internal conflicts raging in many countries of the world, including Guatemala, was to address their fundamental historical and structural causes. Her role was to open up opportunities for the indigenous populations and their representatives so that they could freely express their demands and aspirations.

25. As the twenty-first century approached, populations who for 500 years had been demanding that their rights and identity be respected were fighting a dynamic struggle that could not be shrouded by those who wished to perpetuate regimes of oppression and discrimination. The problems overwhelming Guatemala and many other Latin American countries could not be solved without the full participation of the indigenous populations who in turn needed the cooperation of the rest of society.

26. Ethnic pluralism and cultural diversity were basic characteristics of countries such as Guatemala where indigenous populations were the majority. These populations' conception of the world, language, social structure, relationship with nature and, in short, their history deserved to be recognized and respected.

27. Those values were not static; the roots of a people needed to expand and flourish: attachment to one's roots did not signify excessive attachment to the past or immobility. Indigenous communities were full of vitality. What they were defending above all was the concept of community, which was a key to development.

(Mrs. Rigoberta Menchu)

28. Recognition of the economic, social, cultural, civil and political rights of indigenous populations should not be symbolic, but should be reinforced through the existence of truly representative local authority.

29. The key to development lay in the indigenous peasant communities. Far from opposing modernization and agricultural development, those communities were the depositories of knowledge that would be an important asset in adapting to intensive production suited to environmental requirements. Far from being anchored to underdevelopment, they possessed the potential for the harmonious development of human beings, based on traditions of solidarity and cooperation and on an original vision of democracy.

30. Indigenous languages and religions were an integral part of their history; as an expression of their culture, they should be practised without restriction and should not be used as a pretext for the marginalization of indigenous populations.

31. The demand for autonomy was another key element in the struggle for the full exercise of the rights of indigenous populations. It presupposed direct and complete political representation at the local, regional and national levels, without prejudice to national unity.

32. For the past five centuries indigenous populations had been robbed of their lands; in claiming their rights to those lands, they were joining their non-indigenous brothers, all born of the same mother, Earth.

33. It was hoped that the celebration of the International Year for the World's Indigenous People would go down in history as the beginning of the liberation of those populations.

The meeting was suspended at 11.30 a.m. and resumed at 11.50 a.m.

AGENDA ITEM 96: REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES, QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS AND HUMANITARIAN QUESTIONS (continued)

(a) REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (continued)

(b) QUESTIONS RELATING TO REFUGEES, RETURNEES AND DISPLACED PERSONS (continued)

(c) HUMANITARIAN QUESTIONS (continued)

Draft resolution A/C.3/47/L.36

34. Ms. LUND (Norway) introduced draft resolution A/C.3/47/L.36, entitled "Office of the United Nations High Commissioner for Refugees", on behalf of its sponsors, to which Bulgaria, Costa Rica and the Philippines had been added. She noted that in paragraph 17, the word "Underlines" should be

(Ms. Lund, Norway)

replaced by the words "Takes note of" and the words "urges the High Commissioner" by the words "encourages the High Commissioner".

35. The draft resolution firmly supported the High Commissioner's strategy of prevention, preparedness and solutions in meeting the many problems posed by the refugee situation. It reaffirmed the institution of asylum and respect for international protection principles and welcomed the High Commissioner's strengthened efforts to explore protection and assistance strategies aimed at preventing refugee outflows and addressing root causes. In view of the increasing magnitude of refugee problems, it emphasized the need for States to assist the High Commissioner in finding durable solutions, such as voluntary repatriation, based on respect for fundamental freedoms and human rights. It also underlined State responsibility, particularly as it related to the countries of origin, for addressing root causes and facilitating voluntary repatriation of refugees. It called upon all States and relevant organizations to support the High Commissioner in promoting conditions conducive to voluntary return in safety and dignity. It also stated that basic reintegration assistance should be complemented by broader development initiatives focused on areas of return.

36. It welcomed the progress made in implementing the Guidelines on the Protection of Refugee Women, as well as the appointment of a Senior Coordinator for Refugee Children and the High Commissioner's proposal to appoint an Environmental Coordinator.

37. It strongly deplored ethnic and other forms of intolerance, which were one of the major causes of forced migratory movements, as well as persistent problems in some countries or regions that seriously jeopardized the security and well-being of refugees.

38. It also expressed concern regarding xenophobia and racist attitudes in segments of the population in a number of countries receiving refugees and asylum-seekers.

39. It expressed deep appreciation for the generous humanitarian response of receiving countries, in particular those developing countries that, despite limited resources, continued to admit large numbers of refugees. Lastly, it recalled the urgent necessity for international solidarity and greater burden-sharing among donors.

40. The sponsors hoped that, as in previous years, the draft resolution would be adopted by consensus.

Draft resolution A/C.3/47/L.37

41. Mr. SUKAYRI (Jordan), introducing draft resolution A/C.3/47/L.37 on behalf of the sponsors, said that the text was the result of combining two resolutions adopted without a vote by the General Assembly at its forty-fifth session: resolutions 45/101 and 45/102. Since the objectives of those two

(Mr. Sukayri, Jordan)

resolutions were the same, the sponsors had thought it appropriate to submit a single draft resolution summarizing the basic elements. With the exception of a few drafting changes and the elimination of certain repetitive passages, the text of the draft resolution was identical to that of the resolutions adopted by the General Assembly at its forty-fifth session. In paragraph 2, the General Assembly invited Governments as well as governmental and non-governmental organizations to provide the Secretary-General with their comments on the new international humanitarian order. His delegation wished to emphasize how important it was for the Secretary-General to have the views of all Member States on that question. The first step in establishing a new international humanitarian order was to identify exactly what it should consist of.

42. Some delegations had inquired about the report of the Independent Commission on International Humanitarian Issues. He wished to inform them that the Commission's report, noted by the General Assembly in its resolution 42/120, had been published in English under the title Winning the Human Race and had been translated into Arabic, French, Japanese, Russian and Spanish.

43. The sponsors hoped that draft resolution L.37 would be adopted by consensus.

44. Mr. THEVERMANN (Austria) introduced draft resolution A/C.3/47/L.38, entitled "Assistance to Refugees, Returnees and Displaced Persons in Africa", on behalf of the 32 sponsors, who had now been joined by the Central African Republic, Cuba, Finland, Germany, Liberia, Malawi, New Zealand and Sweden. He said that, in the sixteenth preambular paragraph, the word "externally" should be inserted before the words "displaced persons" and that, in the eighteenth preambular paragraph, the words "the Office of" should be deleted.

45. The draft resolution was the result of the fruitful and constructive work of a number of delegations of African countries and other interested delegations. It commended the States for the sacrifices they had made, for providing assistance to refugees and for the efforts they were making to find durable solutions to their plight. It also expressed appreciation to the Secretary-General, the United Nations High Commissioner for Refugees, the International Committee of the Red Cross and other humanitarian organizations for their assistance. It underlined the need to facilitate the work of humanitarian organizations and to guarantee the safety of their personnel. It appealed to Member States, international organizations and non-governmental organizations to provide adequate and sufficient assistance for relief and rehabilitation programmes for large numbers of refugees, voluntary returnees and displaced persons, both in rural and in urban areas, with particular attention to the special needs of refugee women and children. It requested the Secretary-General to submit a comprehensive and consolidated report to the General Assembly at its forty-eighth session, as well as an oral report to the Economic and Social Council. Given the extensive consultations that had preceded the submission of the draft resolution, he hoped that it would be adopted without a vote.

46. Mr. AL-KINDI (United Arab Emirates) said that his delegation had been unable to participate in the vote on draft resolution A/C.3/47/L.16 at the 41st meeting. If it had been present, it would have voted for the proposed text.

The meeting rose at noon.